



4910-EX-P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

Commercial Driver's License Standards; Waiver for States to Facilitate the Issuance of Licensing Documents to Former Residents of Puerto Rico

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice; grant of waiver.

SUMMARY: FMCSA grants a limited 90-day waiver from certain requirements concerning proof of U.S. citizenship or legal permanent residence and domicile to enable State driver licensing agencies (SDLAs) to accept commercial learner's permit (CLP) and commercial driver's license (CDL) applications from individuals relocating from Puerto Rico as a result of hurricanes Irma and Maria. This action is being taken in response to a request from the Commercial Vehicle Training Association (CVTA) to assist residents of Puerto Rico relocating from the U.S. territory to any of the States in the aftermath of hurricanes Irma and Maria. Through this waiver, the SDLAs may follow the Department of Homeland Security's exception process for persons who, for reasons beyond their control, are unable to present proof of legal permanent residency or U.S. citizenship. Further, this waiver provides a procedure under which persons who intend to domicile in the State of application may receive additional time to provide proof establishing that the State of application is the State of domicile. A CLP document issued under this waiver may not be valid for more than 90 days and must require the applicant to be actively enrolled in a CDL training school within that State. A CDL document issued under this waiver may not be valid for more than six months, by which time the individual is required to provide proof as required under existing regulations that the State that

issued the CDL is his/her State of domicile. All other CLP and CDL licensing requirements must be satisfied upon initial issuance of the CLP or CDL. The Agency has determined that the waiver is within the public interest and would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved by complying with the regulation, based on the terms and conditions imposed.

DATES: This waiver is applicable [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] and expires on [INSERT DATE 90 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Ms. Nikki McDavid, Chief of the Commercial Driver's License Division, Office of Safety Programs, 202-366-0831, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, SE, Washington, DC 20590-0001.

SUPPLEMENTARY INFORMATION:

Legal Basis

The Transportation Equity Act for the 21st Century (TEA-21) (Public Law 105-178, 112 Stat. 107, June 9, 1998) provides the Secretary of Transportation (the Secretary) the authority to grant waivers from any of the Federal Motor Carrier Safety Regulations (FMCSRs) issued under Chapter 313 of Title 49 of the United States Code or 49 U.S.C. 31136, to a person(s) seeking regulatory relief. 49 U.S.C. 31315(a). The Secretary must make a determination that the waiver is in the public interest, and that it is likely to achieve a level of safety that is equivalent to, or greater than, the level of safety that would be obtained in the absence of the waiver. Individual waivers may only be granted for a specific unique, non-emergency event,

for a period up to three months. TEA-21 authorizes the Secretary to grant waivers without requesting public comment, and without providing public notice.

The Administrator of FMCSA has been delegated authority under 49 CFR 1.73(g) to carry out the functions vested in the Secretary by 49 U.S.C. chapter 311, subchapters I and III, relating to commercial motor vehicle programs and safety regulation.

Background

The FMCSA received an application for both a waiver and an exemption from the CVTA. The CVTA requested relief from FMCSA's CDL requirements concerning proof of U.S. citizenship and domicile in the State that issues the CLP or CDL to enable citizens of Puerto Rico to seek training at commercial driving schools in any of the 50 States or the District of Columbia. Elsewhere in today's issue of the Federal Register FMCSA seeks public comment on CVTA's exemption application.

Currently, FMCSA requires individuals seeking a CLP or CDL to provide the State of application proof of citizenship or legal permanent residency. The FMCSRs include a list of acceptable documents States may accept as proof of citizenship or legal permanent residency (see Table 1 to 49 CFR 383.71). FMCSA also requires each person to provide proof that the State to which the CLP or CDL application is submitted is his/her State of domicile. The State must require compliance with the standards for establishing proof of citizenship or legal permanent residency, and domicile.

In the aftermath of hurricanes Irma and Maria, a number of residents of Puerto Rico have or will soon relocate from the U.S. Territory to one of the States. Some of these residents may wish to pursue a career as a commercial motor vehicle driver upon arrival in any of the States. However, because of the hurricanes, these individuals may not possess certain

documents otherwise necessary to establish U.S. citizenship or legal permanent residency under the CLP and CDL regulations. Similarly, the former residents impacted by the hurricanes may not be immediately capable of providing documentation establishing domicile within the application State under the CLP and CDL regulations.

CVTA's Request

The CVTA requests that FMCSA provide a limited 90-day waiver allowing the SDLAs the same flexibility that the DHS provides in its Real ID rules (see 6 CFR 37.11(h)), when, for reasons beyond their control, an applicant for a Real ID is unable to present necessary documents and must rely on alternate methods to establish identity. The CVTA also asks FMCSA to issue a waiver allowing CLP candidates to provide a temporary address for the purposes of obtaining the CLP and CDL. The organization suggests that States limit the duration of the CDL document to 6 months before it must be renewed and require a long-term or permanent address at that time. CVTA argues that the limitations of the waiver would achieve the requisite level of safety by preventing individuals from maintaining a CDL with no known permanent address.

FMCSA Decision

FMCSA has reviewed the CVTA request and DHS' exception process in 6 CFR 37.11(h)) and concluded that the waiver is needed to address the unique, non-emergency situation caused by hurricanes Irma and Maria. The aftermath of those hurricanes resulted in a significant number of citizens of Puerto Rico relocating to various States. While FMCSA's rules under 49 CFR part 383 do not include an exception process for proof of U.S. citizenship or legal permanent residence for individuals seeking a CLP or CDL, the Agency believes the DHS exception process in 6 CFR 37.11(h) provides a proven alternative for use in dealing with

individuals who, for reasons beyond their control, are unable to present the required documents and must rely on alternate methods to establish U.S. citizenship or legal permanent residence. Because the exception process has been proven effective by DHS and the States, FMCSA believes the waiver would achieve the requisite level of safety provided by complying with 383.71(a)(2)(v), 49 CFR 383.71(b)(9), 49 CFR 383.73 (a)(2)(vi), and 49 CFR 383.73(b)(6) concerning proof of U.S. citizenship or legal permanent residence.

Because the initial relocation from Puerto Rico would take place shortly before the drivers begin the training necessary to obtain a CLP, these individuals likely will be unable to provide the documentation necessary to establish a “State of domicile” as defined in 49 CFR 383.5 prior to the completion of the CDL training program and the acceptance of a job driving commercial motor vehicles. The CVTA’s request suggests a 6-month period for those individuals obtaining a CDL to provide proof of permanent domicile within a State, subsequently updating the CDL record with a permanent address and thereby satisfying the domicile requirements. FMCSA believes the 6-month limitation, the States’ use of the DHS exceptions for these CDL applicants to provide legal permanent residence or U.S. citizenship, and the other conditions stated below would achieve the requisite level of safety that would otherwise be provided by requiring proof of domicile at the time of application under 49 CFR 383.71(a)(2)(vi), 49 CFR 383.71(b)(10), 49 CFR 383.73 (a)(2)(vi), and 49 CFR 383.73(b)(6).

Terms and Conditions of the Waiver

FMCSA grants former residents of Puerto Rico relocating as a result of hurricanes Irma and Maria a limited 90-day waiver from 49 CFR 383.71(a)(2)(v) and 383.71(b)(9) concerning proof of U.S. citizenship or legal permanent residence. FMCSA also grants SDLA’s a limited 90-day waiver from 49 CFR 383.73(a)(2)(vi) and 383.73(b)(6) concerning proof of U.S.

citizenship or legal permanent residence. SDLAs choosing to assist Puerto Rican citizens under this waiver must follow DHS's exception process.

FMCSA grants former residents of Puerto Rico relocating as a result of hurricanes Irma and Maria, a limited 90-day waiver from the requirement to provide proof of domicile at the time of application under 49 CFR 383.71(a)(2)(vi) and 383.71(b)(10). FMCSA also grants SDLAs a limited 90-day waiver from 49 CFR 383.73(a)(vi) 383.73(b)(6) and authorizes them to extend the time within which an applicant must provide proof of domicile and issue a CLP or CDL under the limitations set forth in this waiver. Under this waiver, at the time of application, the CLP applicant must be actively enrolled in a CDL training school within the State of application and provide proof of that enrollment. A CLP document issued under this waiver may not be valid for more than 90 days. The CLP must include all other CLP regulatory requirements. Should any individual with a CLP granted under this waiver leave the training program for any reason prior to earning a CDL, the CLP shall be cancelled by the SDLA immediately. The SDLA shall be responsible for implementing any procedures within the State to ensure compliance with this requirement.

A CDL issued under this waiver is limited to six months validity and may not be renewed unless the State complies with 383.73(b)(6) and requires the individual to comply with 49 CFR 383.71(a)(2)(vi) by providing proof that the State to which the application is made is the applicant's State of domicile as defined by 383.5. The SDLA must submit to MCPSD@dot.gov a list of all individuals who are issued CLPs or CDLs under the terms and conditions of this waiver, on a monthly basis. The SDLA must comply with all other requirements of parts 383.71 and 383.73.

This waiver is applicable [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] through [INSERT DATE 90 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

Safety Considerations

Considering the limited period of this waiver, the fact that it does not alter any of the knowledge and skills testing requirements for obtaining a CDL, and the conditions set forth above, the Agency has determined that the waiver is likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by complying with the current regulations.

Issued on: February 9, 2018.

Cathy F. Gautreaux,

Deputy Administrator.

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